

**IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF DELAWARE**

<b>RSI HOME PRODUCTS, INC.</b>	:	
	:	
<b>RSI HOME PRODUCTS MANAGEMENT, INC.,</b>	:	
	:	
<b>and</b>	:	<b>C.A. No. 05-722-GMS</b>
	:	
<b>RSI HOME PRODUCTS SALES, INC.,</b>	:	
	:	
<b>Plaintiffs,</b>	:	<b>JURY TRIAL DEMANDED</b>
	:	
<b>v.</b>	:	
	:	
<b>TAN U.S. GROUP, INC.</b>	:	
	:	
<b>Defendant.</b>	:	

**JOINT STATUS REPORT**

In accordance with this Court's March 9, 2006 Notice of Scheduling Conference the parties submit the following joint status report.

**1. Jurisdiction and Service**

The parties agree that the Court has jurisdiction over the subject matter and the parties involved on this action. Pleadings have been served on all the parties.

**2. Substance of Action**

Plaintiffs filed their First Amended Complaint on February 23, 2006. The First Amended Complaint asserts claims for patent infringement and willful infringement, along with state law claims for tortious interference with business relations and deceptive trade practices. By prior order of this Court, defendant's response to the First Amended Complaint is due on March 27, 2006.

Defendant intends to deny the allegations of infringement and willful infringement. Defendant further intends to assert by affirmative defense, counterclaim or otherwise the invalidity and non-infringement of plaintiffs' patent, misuse of the patent by plaintiffs, and that plaintiffs have asserted the patent claims in bad faith and used the existence of this litigation to interfere with defendant's business relationships. Defendant also intends to move to dismiss plaintiffs' state law claims on grounds that include: 1) plaintiffs' tortious interference claims are preempted by federal patent law; and 2) plaintiffs have failed to state a claim for unfair trade practices under applicable law. Defendant reserves the right to assert by way of motion, pleading or otherwise any other defenses that are available.

Plaintiffs intend to deny the allegations of defendant's counter-claims. Plaintiffs reserve the right to assert by way of motion, pleading, or otherwise, any other defenses that are available.

3. **Issues To Be Resolved**

The issues to be resolved in this litigation include generally: construction, validity, enforceability and infringement of the patent-in-suit. If plaintiffs prevail on these issues the finder of fact must determine whether defendant's infringement was willful and what, if any, damages plaintiffs have suffered. With regard to the state law claims, the Court must determine whether plaintiffs' claim for tortious interference is preempted by federal patent law and whether plaintiffs have stated a claim for unfair trade practices under applicable law. If the Court finds for plaintiffs on these issues, the finder of fact must determine whether defendant has tortiously interfered with plaintiffs' contracts and/or engaged in unfair trade practices. If defendant is found liable on either of these claims the finder of fact must determine what damages, if any, plaintiffs have suffered.

4. **Narrowing Of Issues**

Defendant intends to file a motion to dismiss the state law counts of the Amended Complaint. If granted, this motion would narrow the issues to be decided at trial. The parties also may file motions for summary judgment, which could limit or resolve one or more issues in advance of trial. The parties may seek a *Markman* hearing, after appropriate briefing, which could construe the scope of the patent and further limit the issues to be determined at trial.

5. **Relief**

Plaintiffs seek injunctive relief to enjoin defendant from alleged further infringement, contributing to the infringement, and inducing infringement of the patent-in-suit. Plaintiffs also seek an award of compensatory damages, enhanced damages, and interest, costs and fees pursuant to 35 U.S.C. § 285.

Defendant seeks an order denying the relief sought in the Amended Complaint and requests a declaratory judgments that the patent-in-suit is invalid and unenforceable, that defendant is not infringing, and that this suit was brought in bad faith and constitutes patent misuse by plaintiffs. Defendant will also seek injunctive relief, damages, and interest, costs and attorney's fees pursuant to 35 U.S.C. § 285.

6. **Amendment of Pleadings**

The parties have agreed that unless the Court orders otherwise all motions to amend pleadings shall be filed by January 26, 2007.

7. **Joinder of Parties**

The parties have agreed that, unless the Court orders otherwise, all motions to join additional parties shall be filed by January 26, 2007.

8. **Discovery**

Absent further agreement or Order of the Court, the parties have agreed to abide by Rule 26.1 of the Delaware Local Rules. The parties agree that either party shall be free to seek leave of Court, for good cause shown, to amend the discovery provisions of Local Rule 26.1. The parties have also conferred on the issue of scheduling and, in light of the numerous and complicated issues presented by the case, have agreed upon and hereby propose the following schedule of dates set forth in Exhibit A hereto.

9. **Estimated Trial Length**

The parties estimate that the trial will take 10 full court days.

10. **Jury Trial**

The parties have demanded trial by jury.

11. **Settlement**

The parties do not believe settlement discussions would be productive at this time. The parties remain willing to reconsider settlement possibilities at a later date, at which time the parties would be willing to discuss settlement with the supervision of the Magistrate Judge.

12. **Other Matters**

The parties agree that a Protective Order will be desirable and prudent. The parties will employ their best efforts to reach agreement on the terms of such a Protective Order by April 10, 2006.

13. **Certificate of Conference**

The parties certify that they have conferred about each of the above matters set forth in this report.



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